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In the Supreme Court of the United States

OCTOBER TERM, 1962

No. [REDACTED] 82

ITALIA SOCIETA PER AZIONI DI
NAVIGAZIONE,

Petitioner,

v.

OREGON STEVEDORING COMPANY, INC.,
Respondent.

BRIEF OF RESPONDENT OREGON STEVEDORING
COMPANY, INC., IN OPPOSITION TO MOTION OF
AMERICAN MERCHANT MARINE INSTITUTE, INC.,
PACIFIC AMERICAN STEAMSHIP ASSOCIATION, AND
LAKE CARRIERS' ASSOCIATION FOR PERMISSION
TO FILE A BRIEF
AS AMICI CURIAE
IN SUPPORT OF POSITION OF PETITIONER,
ITALIA SOCIETA PER AZIONI DI NAVIGAZIONE

To the Honorable Chief Justice of the United States and
to the Associate Justices of the Supreme Court
of the United States

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**In the Supreme Court
of the United States**

OCTOBER TERM, 1962

No. 876

**ITALIA SOCIETA PER AZIONI DI
NAVIGAZIONE,**

Petitioner,

v.

OREGON STEVEDORING COMPANY, INC.,
Respondent.

**BRIEF OF RESPONDENT OREGON STEVEDORING
COMPANY, INC., IN OPPOSITION TO MOTION OF
AMERICAN MERCHANT MARINE INSTITUTE, INC.,
PACIFIC AMERICAN STEAMSHIP ASSOCIATION, AND
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**To the Honorable Chief Justice of the United States and
to the Associate Justices of the Supreme Court
of the United States**

The reasons for respondent, Oregon Stevedoring Company, Inc. withholding consent to the filing of an *amici curiae* brief by the various steamship associations are as follows.

The factual position of the associations is exactly the position of the petitioner in this case. The petitioner is a shipowner, albeit a foreign shipowner. The associations are collections of shipowners. Their relation to the stevedore contractor is exactly the same as that of the petitioner, i.e., they enter into contracts for stevedoring services aboard vessels. The associations bring no new viewpoint to the determination of this case before this Court. The thrust of the associations' motion is merely that there are other shipowners who contract with stevedore companies and they are interested in the outcome of this case. Certainly, there are other stevedore companies who are interested in the outcome of this case. There are probably people similarly situated to petitioner and respondent in practically every case before this Court. Certainly, cases should not be decided on the basis of how many people similarly situated can be found to line up on one side or the other. The associations point to no facts not to be presented by petitioner and respondent except to state that they are in similar fact situations.

From the similarity of factual positions follows the similarity of legal questions presented by petitioner and the associations. The associations in their motion point to no question of law not directly presented between petitioner and respondent. The question to be decided by this Court is simply the interpretation of the contract between a shipowner and a stevedore. The associations state in their motion that they intend to cite authorities relating to the implied warranty of workmanlike services, to analyze *Booth SS Co. v. Meier and*

Oelhaaf, and to show the inequitable result of the decision of the court of appeals. (Motion, p. 4). This is exactly what the petitioner does in its brief (Petitioner's Brief, p. 6, 16, 20). Obviously, these are exactly the issues which petitioner must raise and discuss in its brief in its attempt to upset the decision of the court of appeals. The associations cannot point to any new question of law which is not presented to the Court in petitioner's brief.

Respondent would also point out to the Court that the United States has appeared *amicus curiae* on behalf of the petitioner, respondent having been served with a brief by the United States on August 22, 1963. The interest of the United States is as the world's largest shipowner (Brief, *amicus curiae*, p. 4). The United States in its brief discusses exactly the same questions of law which the associations state they want to discuss and complains of the same inequities of which the associations complain (Brief, *amicus curiae*, p. 4). Respondent believes that the United States has adequately covered the ground which the associations now intend to recover and that one *amicus curiae* shipowner, particularly the largest in the world, is enough.

The associations complain bitterly about the economic impact of this decision (Motion, p. 2, 3). The simple answer is that the relationship between the shipowner and stevedore is one of contract and the parties are free to distribute the loss involved in personal injuries as they desire. Certainly the stevedore companies are not in any stronger economic position than the shipowners. Practically all of the contracts

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between shipowner and stevedore have some provision for distribution of this type of loss as did the contract in this case (R. 34). Therefore, this case will have no great impact on the steamship industry and the considerations of economic impact cited by the associations have no relevancy.

For the foregoing reasons, respondent withheld its consent to the filing of a brief, *amici curiae*, by the shipowners associations and now respectfully submits that the motion to do so should be denied.

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